Supreme Court, U.S.
FILED
SEP 11 2007
OFFICE OF THE CLERK

No. 07-426

In the
Supreme Court of the United States

RICHARD HAMBLEN,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

JEFFERY S. FRENSLEY
Counsel of Record
211 THIRD AVENUE NORTH
P.O. BOX 198288
NASHVILLE, TN 37219-8288
(615) 256-2111

Counsel for Petitioner Richard Hamblen

September, 2007

Becker Gallagher · Cincinnati, OH · Washington, D.C. · 800.890.5001

I. QUESTION PRESENTED

Whether the Second Amendment Guarantees Members Of A Legitimate State Authorized Militia To Keep and Bear Arms Supplied By Themselves Of The Kind In Common Use By The Military At The Time.

II. PARTIES TO THE PROCEEDING

The Petitioner, Richard Hamblem, was the Defendant/Appellant below.

Respondent, United States of America was the Plaintiff/Appellee in the Court of Appeals.

TABLE OF CONTENTS

I. QUESTION PRESENTED i

II. PARTIES TO THE PROCEEDING ii

TABLE OF CONTENTS iii

TABLE OF AUTHORITIES v

III. OPINION BELOW 1

IV. JURISDICTION 1

V. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 1

VI. STATEMENT OF THE CASE 2

VII. REASONS FOR GRANTING THE WRIT OF CERTIORARI 7

Whether the Second Amendment Guarantees Members Of A Legitimate State Authorized Militia To Keep and Bear Arms Supplied By Themselves Of The Kind In Common Use By The Military At The Time. 7

VIII. CONCLUSION 17

APPENDIX

Appendix A: 6/21/07 Circuit Court Opinion 1a

Appendix B: 8/25/06 District Court Judgment in a Criminal Case 14a

Appendix C: 7/13/07 Mandate 22a

TABLE OF AUTHORITIES

Cases

Hampton and Company v. United States,
276 U. S. 394, 412 (1928) 11

Marbury v. Madison,
5 U. S. 1(Cranch), 137, 174 (1803) 9

Parker v. District of Columbia,
478 F. 3d 370 (D. C. Cir. 2007) 8

Perpich v. Department of Defense,
496 U. S. 334, 110 S. Ct. 2418,
110 L. Ed 2d 312 (1990) 15

United States v. Bournes,
339 F. 3d 396 (6th Cir. 2003) 12

United States v. Emerson,
270 F. 3d 203 (5th Cir 2001) 8

United States v. Miller,
307 U. S. 174, 59 S. Ct. 816,
83 L. Ed 2d 1206 (1939) . . . . . *passim*

United States v. Oakes,
564 F. 2d 384, 387 (10th Cir. 1977) 12

United States v. Warin,
530 F. 2d 103, 106 (6th Cir. 1976) 8, 12

Statutes and Codes

18 U. S. C. § 922 (o) 2

28 U. S. C. § 1254 (1) 1

T.C.A. § 58-1-104, 58-1-410 2

Other Authorities

C. Greenwood, *Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales 7* (1972); C. Hollister, *Anglo-Saxon Military Institutions,* Chap. 2 (1962) 10

Constitutional Provisions

Constitution, art. I, § 8, cls. 15-16 . . . . . 1, 11

First Militia Act, 1 Stat. 271 (1792) 11

Second Amendment . . . . . *passim*

III. OPINION BELOW

The opinion of the United States Court of Appeals for the Sixth Circuit is reproduced in the appendix hereto.

IV. JURISDICTION

The opinion and judgment of the United States Court of Appeals for the Sixth Circuit was entered on June 21, 2007. This petition for writ of certiorari is filed within ninety (90) days of that judgment. This Court's jurisdiction is invoked under 28 U. S. C. § 1254 (1)

V. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment provides "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

The Militia Clauses of the Constitution, art. I, § 8, cls. 15-16, empower Congress "[t]o provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions" and "[t]o provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service or the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress."

18 U. S. C. § 922 (o) states:

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to--

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

VI. STATEMENT OF THE CASE

Richard Hamblen graduated from Vanderbilt University, Summa Cum Laude, majoring in Greek and Latin in 1977. While at Vanderbilt, Mr. Hamblen was a member of the Army ROTC. Mr. Hamblen comes from a long line of descendants who actively served in the armed forces of the United States and State of Tennessee. Mr. Hamblen himself served eight (8) years in the United States Army obtaining the rank of First Lieutenant before being honorably discharged in 1984. After leaving United States service, Mr. Hamblen was commissioned as an officer in 1999 in the Tennessee State Guard.

The Tennessee State Guard is an all volunteer force created and authorized by Tennessee State Law within the Tennessee Department of the Military. T.C.A. § 58-1-104, 58-1-410. Pursuant to its statutory authority, the Tennessee

State Guard is authorized to act as an armed force. Id. There were approximately eleven hundred (1,100) members of the Tennessee State Guard in 2001. All members of the State Guard are responsible for purchasing their own uniforms and other equipment.

The State of Tennessee maintains twenty-one (21) M16A1 rifles, defined by federal law as machine guns for use by the Tennessee State Guard. Members of the State Guard receive annual training which includes weapons familiarization and includes live fire exercises with these M16A1s.

At the annual live fire training exercise, a civilian employee of the Tennessee Department of the Military signed for and received the M16A1s from the Tennessee National Guard Armory in Smyrna, Tennessee and then provided the weapons to Tennessee State Guardsmen who were responsible for supplying their own ammunition and magazines, cleaning and servicing the weapons, conducting the live fire exercises and securing the weapons during the training.

Throughout its history, the Tennessee State Guard has been used on occasion to perform official state duties. The Guard has on occasion performed those functions in an armed capacity.

Immediately after September 11, 2001, the Tennessee State Guard was utilized to perform security functions at the United States Naval Air Station in Millington, Tennessee. In the months following September 11, there was discussion regarding further use of the Tennessee State Guard with respect to security functions relating to preparation for possible chemical and biological attacks.

In September 2001, Mr. Hamblen held the rank of Captain in the Tennessee State Guard. Mr. Hamblen was in command of the 201st Military Police Battalion. Based upon his years of experience and training in the U.S. Army, and given his understanding of the role the State Guard might be called upon to fulfill, Mr. Hamblen never questioned that there was the possibility that the Guard would be utilized in its statutorily authorized capacity as an armed force. Similarly, based upon his experience and training and years of service with the Tennessee State Guard, he recognized that the Guard was woefully unprepared to fulfill its duty if called upon to act as an armed force. Specifically, the State of Tennessee was not adequately prepared to arm the Guard should it be called upon to act in such a capacity.

In light of his understanding of the situation, the potential for being called to act in such fashion and his duty to the State of Tennessee, as well as his duty to the men and women he commanded, Mr. Hamblen used materials legally obtained on the open market necessary to rebuild demilitarized weapons which have been or are currently used by the Armed Forces of the United States and its NATO allies.

Mr. Hamblen eventually realized that the Tennessee State Guard would not be utilized in its full constitutional and statutorily authorized capacity as an armed force. By this time, Mr. Hamblen already had the weapons in question. The weapons were stored along with other military weapons and equipment at Mr. Hamblen's place of business located on Houston Street in Nashville, Tennessee. The weapons were kept locked in a concrete safe with a steel door secured by a steel deadbolt lock.

In light of the fact that there was a decreasing likelihood of the Tennessee State Guard being used in its authorized

Constitutional role, Mr. Hamblen set about to find a way to dispose of the weapons in a manner consistent with federal law. Mr. Hamblen first obtained a Federal Firearms License (FFL) and subsequently obtained a Special Occupational Tax Stamp which would allow him to register and transfer the weapons in question in accordance with federal law. To obtain a Federal Firearms License an individual must complete a vetting process which includes extensive background and criminal history checks. Once an individual obtains a F. F. L., which is the most rigorous application process, he can then simply pay a tax to the Treasury to purchase the Special Occupational Tax stamps necessary to manufacture, register and sell weapons of the type Mr. Hamblen had.

In March 2004, Mr. Hamblen obtained his F. F. L after being subjected to the extensive background investigation. After agents from the FBI and ATF initially contacted him he completed the application, paid the tax and subsequently received the Special Occupational Tax Stamp for 2004, 2005, and received a renewal notice for 2006.

On April 22, 2004, agents with the FBI and Bureau of Alcohol, Tobacco, Firearms and Explosives went to Mr. Hamblen's place of business on Houston Street in Nashville, Tennessee. The Agents were investigating an alleged tip from an informant that Mr. Hamblen might be in possession of automatic weapons. The agents did not have a search warrant.

Mr. Hamblen greeted the agents and was very cooperative in his interview with them. Mr. Hamblen was asked if he had any automatic weapons in possession and he initially stated that he did not. Mr. Hamblen was asked if he would consent to a search of his premises to which he agreed. He was again asked if he had any automatic weapons in his possession at

which time he acknowledged that he did in fact have such weapons and directed the agents to the safe described above.

Inside the safe Mr. Hamblen directed the agents to nine (9) items in various operational conditions which he stipulated at trial met the statutory definition of a machine gun even though not all were actually functioning weapons. Mr. Hamblen voluntarily forfeited the weapons and assisted the agents in loading the firearms in their vehicle.

On December 14, 2005, a year and a half later Mr. Hamblen was charged in a two (2) count indictment. The case proceeded to trial and on May 31, 2006, the jury returned a verdict of guilty on both counts. Mr. Hamblen was subsequently sentenced to a term of imprisonment of fifteen (15) months on each count to run concurrently followed by a two (2) year period of supervised release, which he is currently serving.

On June 21, 2007, the United States Court of Appeals for the Sixth Circuit affirmed Mr. Hamblen's conviction. The Sixth Circuit held that the Second Amendment creates a collective rather than an individual right to keep and bear arms and that no facts supported Mr. Hamblen's position that his possession of machine guns was authorized by his membership in the Tennessee State Guard.

VII. REASONS FOR GRANTING THE WRIT OF CERTIORARI

Whether the Second Amendment Guarantees Members Of A Legitimate State Authorized Militia To Keep and Bear Arms Supplied By Themselves Of The Kind In Common Use By The Military At The Time.

This Court has not addressed the parameters of the Second Amendment to the United States Constitution with respect to an individual's right to keep and bear arms in connection with his membership in a well regulated Militia since the 1939 decision in United States v. Miller, 307 U. S. 174, 59 S. Ct. 816, 83 L. Ed 2d 1206 (1939). Mr. Hamblen submits that it is no understatement to say that this case is the most significant Second Amendment case since United States v. Miller.

The Sixth Circuit's ruling that the Second Amendment guarantees only a collective right to bear arms and that an individual such as Mr. Hamblen a duly enrolled member of a lawful statutorily authorized militia does not have the right to keep and bear arms for his use in the Militia is not only contrary to the plain language of the Second Amendment but renders the amendment absolutely meaningless. At a time when our country faces growing threats internationally and domestically the right of our citizens to arm and protect themselves to respond to these threats both individually and collectively is important and deserving of review by this Court.

This Court should grant certiorari for four reasons: first, there is a split of authority at the Circuit Court level as to the nature of the right guaranteed by the Second Amendment;

second, the decision of the Sixth Circuit Court of Appeals is in conflict with this Court's decision in United States v. Miller; third, the Court must determine whether the United States Government may prohibit members of a lawful, state authorized Militia from possessing weapons supplied by themselves of the kind in common use by the armed forces at the time; and finally, these proceedings involve questions of exceptional importance regarding the meaning, scope and application of the Second Amendment.

This case represents the best opportunity for the Court to address the parameters of the Second Amendment with respect to the nature of the right guaranteed by that Amendment. Not only does this case squarely present an opportunity for the Court to resolve the conflict regarding whether the Second Amendment creates a collective or individual right but goes a step further by focusing that inquiry in the context of the Petitioner's membership in a legitimate statutorily created and recognized Militia.

A. There is a spilt of authority at the Circuit Court level as to the nature of the right guaranteed by the Second Amendment.

In the opinion below, the Sixth Circuit Court of Appeals reaffirmed its ruling in United States v. Warin, joining the majority of Circuit courts holding that the Second amendment guarantees a collective rather than an individual right. 530 F. 2d 103, 106 (6th Cir. 1976). The Fifth Circuit and now the D. C. Circuit have interpreted the second amendment to guarantee an individual right. United States v. Emerson, 270 F. 3d 203 (5th Cir 2001); Parker v. District of Columbia, 478 F. 3d 370 (D. C. Cir. 2007). The court should grant Certiorari in this case in order to resolve this issue of great constitutional importance.

Under any conceivable interpretation of the Second Amendment, the collective rights view is wrong because some individuals among "the people" must in fact personally and physically "keep and bear arms." If those individuals do not include at least the actual members of "a well-regulated militia" within a state, then the Second Amendment is meaningless, and if meaningless is without effect. However, "[i]t cannot be presumed" – let alone held – "that any clause of the constitution is intended to be without effect." Marbury v. Madison, 5 U. S. 1(Cranch), 137, 174 (1803).

It is impossible to imagine a "collective" right for a militia as a disembodied institution to "keep and bear arms" that does not entail an "individual" right for each member of that militia to do so in his own hands. The right, after all is exercised only through the actual "keep[ing] and bear[ing] arms, " which can be done only by a human actor.

Considering the original intent and the language of the drafters of the Constitution, it is clear that the Bill of Rights, with the exception only of the Tenth Amendment was intended to protect personal liberty. Consideration of the text, historical background and writings contemporaneous to its adoption, it is clear that the drafters and ratifiers of the Bill of Rights intended the Second Amendment to guarantee an individual right. This case provides the court the vehicle and opportunity to resolve this issue about which the lower courts are conflicted.

B. The Decision of the Sixth Circuit Court of Appeals is in Conflict with the Supreme Court's decision in United States v. Miller.

The single most significant aspect of this case is that the Defendant, Mr. Hamblen was a member of a legitimate, statutorily authorized Militia; the Tennessee State Guard. While individuals have previously attempted to justify firearm possession based upon membership in some ad hoc private militia or sedentary militia, this appears to be a case of first impression regarding enrolled membership in a legitimate, statutorily authorized militia.

Since their settlement, the American colonies endured the threat of attack by numerous enemies. The colonists shared their ancestors' fear and distrust of a standing army in peacetime and unwilling to maintain such adopted the time honored militia system which dates back to the English Assice of Arms in 1181. In the absence of a police force or standing army in peace time, every free Englishman was both permitted and required to keep such arms as he could afford both for law enforcement and military service; as well as for personal protection. C. Greenwood, *Firearms Control: A Study of Armed Crime and Firearms Control in England and Wales 7* (1972); C. Hollister, *Anglo-Saxon Military Institutions,* Chap. 2 (1962). With slight variations, the different colonies and in turn the independent states required virtually every able bodied free white man between the age of majority and a designated cut off age to keep arms and muster occasionally for drill. In 1792, The Congress,(including many of the same men who drafted and adopted the Second Amendment) meeting following the enactment of the Second Amendment, defined the Militia to include the entire able bodied military age male citizenry of the United States and required each of them to own supply his own firearm. First

Militia Act, 1 Stat. 271 (1792); See e. g., Hampton and Company v. U. S., 276 U. S. 394, 412 (1928), and cases cited therein. Thus, those arms owned personally by an individual were the arms of the Militia.

The Constitution empowers the Federal Government to call forth the militia "to execute the Laws of the Union, suppress Insurrections and repel Invasions." Article I, Section 8, Clause 15. The Militias are the only constitutional establishments to which the constitution explicitly assigns those duties. Therefore, maintenance of the militia and complete compliance with constitutional principles is mandatory. One of those constitutional principles is that members of the militia must be suitably armed. Therefore, since the Constitution cannot be internally self-contradictory, Congress can have no power to disarm the States' Militia directly or to achieve the same result indirectly by preventing their members from arming themselves if the State's neglect to do so. The conclusion is inescapable that Congress is absolutely prohibited from enacting any law that prohibits an enrolled member of a state Militia, otherwise acting lawfully, from actually possessing the types of firearms suitable for Militia use that are involved here, whether he obtains those firearms directly from the State or, based on the State's dereliction of duty, is compelled to supply them himself.

United States v. Miller, discussed the Second Amendment in the context of the militia. No one participated in the proceedings on the behalf of Mr. Miller. It is therefore unclear what Miller's status was vis á vis the Militia. However, the Court reasonably interpreted the term "militia" as it existed at the drafting of the Constitution and the first Militia Acts. Nonetheless, lower Courts have attempted over time to narrow the definition of what constitutes a militia by refusing to recognize membership in private militias or

sedentary militias as worthy of consideration. See e. g. United States v. Warin, *supra*; United States v. Oakes, 564 F. 2d 384, 387 (10th Cir. 1977); United States v. Bournes, 339 F. 3d 396 (6th Cir. 2003).

The decision below by the Sixth Circuit is inconsistent with the original intent of the Framers, historical understanding of the rights and obligations of Militia men and contrary to this Court's opinion in Miller. Having no choice but to recognize the lawfulness and legitimacy of the Tennessee State Guard and of Mr. Hamblen's membership in it, the court nonetheless determined that his firearm possession was not protected by the Second Amendment. Mr. Hamblen submits there is simply no way to reconcile this decision with the Second Amendment and this Court's ruling in Miller; and if this decision is allowed to stand whereby an individual can be a member of a Militia but not possess and maintain personal weapons of a type related to that Militia service the Second Amendment is in fact a dead letter. In other words, if someone like Mr. Hamblen, who is a member of a legitimate statutorily created and authorized Militia, does not have the right to keep and maintain weapons of a military character which would be related to service in that Militia, then no one has the right, rendering the amendment meaningless.

There can be no question that Miller applies in its fullest force in this case. Although there was no evidence that the individual Defendants in Miller were enrolled members of any actual state Militia, the Court treated the Second Amendment as applicable and the Government raised no objection. The only question addressed in Miller was whether a particular weapon, a shotgun, was a suitable firearm for a Militia, a question the Court could not answer because there was no evidence in the record on that matter. Here, there is no

question that Hamblen was an enrolled member of Tennessee's Militia and the firearms at issue in this case are precisely of the types used everywhere throughout the world by light infantry forces.

If the Sixth Circuit's decision were correct, then Miller should have held that the Defendants there had no Second Amendment defense at all as a matter of law; not that the validity of their defense depended on a disputed question of fact relating to the type and use of the firearm at issue. Conversely, if Miller is correct, then the validity of Mr. Hamblen's defense likewise, must turn on whether the firearms he possessed were, or could be "part of the ordinary military equipment" that "could contribute to, defense," which no one can deny. Thus, the Sixth Circuit's decision can be correct only if Miller is incorrect; a decision only the Supreme Court can make.

C. The Court Must Determine Whether The United States May Prohibit Members Of A Lawful, State Authorized Militia From Possessing Weapons Supplied By Themselves Of The Kind In Common Use By The Armed Forces At The Time.

Though Miller offered little in the way of resolution in the many years since it was decided, one portion of the opinion is absolutely clear and not debatable:

> . . . these show plainly enough that the militia comprised all males physically capable of acting in concert for the common defense. . . [a]nd further, that ordinarily when called for service these men were

> expected to appear bearing arms supplied by themselves and of the kind in common use at the time.

307 U. S. at 179.

The opinion below cites Miller for the proposition that weapons possession is protected under the Second Amendment if it "has some reasonable relationship to the preservation or efficiency of a well regulated militia." But, the lower court goes on to hold that Mr. Hamblen cannot make such a showing because: (1) If necessary the state would arm and equip its Militia and; (2) there was no order from the state requiring him to possess and maintain such weapons. Mr. Hamblen submits that these arguments miss the point. Miller implicitly recognizes that the personal possession of firearms by an individual presumed to be a member of a Militia preserves the efficiency thereof under modern conditions. Given the growth of the modern military establishment unimaginable and perhaps unwanted by the Founders; the contemporary view of the Militia is that it is a resource only for times of dire necessity such as keeping order when the Armed Forces and federalized National Guard have been committed elsewhere or in the aftermath of some catastrophic attack or natural disaster. This was the very motivation for Mr. Hamblen obtaining the firearms in the first place.

Given that the very circumstances which would require the calling up of the Militia today would probably prevent them from drawing weapons from centralized armories; their personal possession of weapons facilitates Militia service today no less than at the time of the adoption of the Bill of Rights. The Sixth Circuit's optimistic assessment of the State's ability to arm the Militia under such circumstances defies both logic and experience. Given the well-documented

difficulties the United States Army had arming and protecting troops in Iraq it is incredible to believe that the State of Tennessee would be able to arm and equip the Tennessee State Guard given the chaotic circumstances which would lead to such a situation. This is true especially since, according to the testimony of the commanding General of the Tennessee State Guard, no contingency plan for doing so exists and at a time of relative calm, the State possesses only 21 M16A1s for the entire Tennessee State Guard and no ammunition or accessories.

D. These Proceedings Involve Questions Of Exceptional Importance Regarding The Meaning, Scope And Application Of The Second Amendment.

Sovereignty ultimately resides in the people who delegate certain enumerated powers to the governments they establish. All powers not delegated to federal or state governments through their respective Constitutions are retained by the People. One such power reserved to the People through the Second Amendment of the Bill of Rights is the right to keep and bear arms in order to provide themselves with the means necessary to form themselves into militias to maintain the security of a free state. This right pre dates the Constitution, and is recognized by the Constitution as an intregal mechanism for maintaining the Constitution's very existence by granting the federal government the power to call the militia into Federal Service in order to ensure that the laws are faithfully executed, suppress insurrection and repel invasion.

The Militia has been recognized by law throughout the history of this country. Perpich v. Department of Defense, 496 U. S. 334, 110 S. Ct. 2418, 110 L. Ed 2d 312 (1990).

Organizations such as the Tennessee State Guard, of which Mr. Hamblen was a member, are recognized as the militia of the Constitution and current law. As Miller states, the Second Amendment was ratified with the purpose of maintaining the efficiency of the militia, and thus the security of a Free State. Any law or act of government, which impairs the efficiency of the militia by infringing upon its right to acquire and maintain weaponry of the type in common use at the time, is contrary to these well-established principals.

In these times when our elected officials are continually warning the People of the United States to be especially vigilant in the face of threats presented by foreign enemies and their domestic allies it would seem foolhardy to deprive the people in this country of the means to utilize the time honored and constitutionally sanctioned methods of maintaining the very freedoms and existence guaranteed by the Bill of Rights. The Second Amendment guarantees the right of the people to keep and bear arms as well as the continued existence and utility of the militia, stated by the Constitution as so "necessary for the security of a Free State."

Each of these arguments point out the deficiencies in the reasoning of the Court of Appeals. Further, the lower court fails to recognize the distinction between that which is a right and that which is required. The fact that the State of Tennessee or the Tennessee State Guard leadership did not require members to obtain or possess personal weapons in no way undermines the legitimacy of members doing so on their own. These facts were all recognized by this Court in Miller as a constitutionally guaranteed given. The only true question is whether the arms at issue were " . . . any part of the ordinary military equipment or that its use could contribute to the common defense." There is undisputed trial testimony that

Mr. Hamblen's weapons were of the type expected to be used and in fact trained with by members of the State Guard. Further, it is undisputed that these weapons are part of the ordinary military equipment and of the type used by the modern armed forces.

In sum, the holding of the United States Court of Appeals for the Sixth Circuit is that even if an individual is a member of a legitimate statutorily authorized Militia and the firearms at issue are part of the ordinary military equipment or could contribute to the common defense, that individual is nonetheless not protected by the Second Amendment in possessing such weapons. If the Second Amendment does not protect an individual's possession of such firearms under these circumstances, then it offers no protection whatsoever and is meaningless. Such a decision is inconsistent with historical principles, the original intent of the Constitutional Framers and the recognized authority of this Court in United States vs. Miller. This Court should grant Certiorari in order to clarify the nature of the right guaranteed by the Second Amendment, establish the parameters for applying that right and upholding the legal and historical precedent of this court and the Constitution.

VIII. CONCLUSION

For the foregoing reasons the Petitioner prays that a Writ of Certiorari issue to review the decision of the Sixth Circuit and vacate the decision below and order the case remanded.

Respectfully Submitted,

JEFFERY S. FRENSLEY #17358
Counsel of Record
211 Third Avenue North
P. O. Box 198288
Nashville, Tennessee 37219-8288
615-256-2111

Attorney for the Petitioner